Executive Summary – Enforcement Matter – Case No. 41910 City of Houston RN100618636, RN102383890, and RN102396611 Docket No. 2011-1023-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

No

Location(s) Where Violation(s) Occurred:

Northwest Service Center ("Facility 1"), 1255 Judiway Street, Houston, Harris County; HPD Clear Lake Police Station ("Facility 2"), 2855 Bay Area Boulevard, Houston, Harris County; and PWE Street Maintenance ("Facility 3"), 1700 East Crosstimbers Street, Houston, Harris County

Type of Operation:

Fleet refueling service facilities

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 11, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,600

Amount Deferred for Expedited Settlement: \$1,520 Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,080 **Total Due to General Revenue:** \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN600128995- Average Site/RN100618636 - Average

RN102383890 – High RN102396611 - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41910 City of Houston RN100618636, RN102383890, and RN102396611 Docket No. 2011-1023-PST-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 8, 2011, July 5, 2011, and July 15, 2011

Date(s) of NOE(s): June 8, 2011, July 5, 2011 and July 15, 2011

Violation Information

At Facility 1:

1. Failed to monitor underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].

At Facility 2:

- 2. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)]; and
- 3. Failed to provide proper release detection for the product piping associated with the UST system [30 Tex. Admin. Code § 334.50(b)(2) and Tex. Water Code § 26.3475(a)].

At Facility 3:

4. Failed to provide proper release detection for the product piping associated with the UST system. Specifically, the Respondent did not conduct the required triennial piping tightness testing [30 Tex. Admin. Code § 334.50(b)(2) and Tex. Water Code § 26.3475(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
- i. Implement a release detection method for all USTs at Facilities 1 and 2;

Executive Summary – Enforcement Matter – Case No. 41910 City of Houston RN100618636, RN102383890, and RN102396611 Docket No. 2011-1023-PST-E

ii. Implement a release detection method for the piping associated with the USTs at Facilities 2 and 3; and

b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A Date Answer(s) Filed: N/A SOAH Referral Date: N/A Hearing Date(s): N/A Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEO Enforcement Coordinator: Wallace Myers, Enforcement Division,

Enforcement Team 7, MC 128, (512) 239-6580; Debra Barber, Enforcement Division,

MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Michael C. Jozwiak, Project Manager, City of Houston, General Services

Department – Environmental, P.O. Box 1562, Houston, Texas 77251

Gabriel Mussio, Division Manager, City of Houston, General Services Department -

Environmental, P.O. Box 1562, Houston, Texas 77251

Respondent's Attorney: N/A

| Policy Revision 2 (Se | * | Calculatio | n Workshe | et (PC) | • | October 30, 2008 |
|---|--|--|--------------------------|-----------------------|--|------------------|
| DATES Assigned | 13-Jun-2011 | | | | | |
| PCW RESPONDENT/FACILI | TY INFORMATION | ng 16-Jun-2011 | EPA Due | | | |
| | City of Houston ("Facility 1 | [") | | | | |
| Reg. Ent. Ref. No. Facility/Site Region | | | Major/Mir | nor Source | Minor | |
| | 12 11003(01) | · · · · · · · · · · · · · · · · · · · | 1 | | | |
| CASE INFORMATION Enf./Case ID No. | 41910 | | l No. of | Violations | 1 | |
| Docket No. | 2011-1023-PST-E | | | Order Type | 1660 | |
| | Petroleum Storage Tank | 4. | Government/ | L | | |
| Multi-Media | | | | | Wallace Myers Enforcement Team | 7 |
| Admin. Penalty \$ L | imit Minimum \$0 | Maximum | \$10,000 | LC 5 TCam | Constitution of the contract o | |
| | Pena | altv Calcula | tion Section | <u>1</u> | | |
| TOTAL BASE PENA | LTY (Sum of violation | • | | | Subtotal 1 | \$2,500 |
| union du partir l'arenda de l'accionne | /-) TO SUBTOTAL 1 | | | | | |
| Subtotals 2-7 are of | tained by multiplying the Total B | ase Penalty (Subtotal | 1) by the indicated per | | Ne ver constitui | |
| Compliance Hi | story | 2.0% | Enhancement | Subtot | als 2, 3, & 7 | \$50 |
| Notes | Enhancement for | or one NOV with d | issimilar violations | | | |
| | | : | | | | |
| Culpability | No | 0.0% | Enhancement | | Subtotal 4 | \$0 |
| Notes | The Respondent | does not meet the | e culpability criteri | a. | | |
| | | | | ليحت والتعالم | | |
| Good Faith Effe | ort to Comply Total Adju | stments | | | Subtotal 5 | \$0 |
| | | | | | | |
| Economic Beni | Entre de la Companya de Co | | Enhancement* | | Subtotal 6 | \$0 |
| Approx. | Total EB Amounts \$58 Cost of Compliance \$1,500 | | ed at the Total EB \$ An | nounc | | |
| | | orania. Distriction de tueres, d'elete des d | | e na Nakabara ta da 📖 | r on LeoLegoneser | 40 550 |
| SUM OF SUBTOTAL | IS 1-/ | | | FI | nal Subtotal | \$2,550 |
| OTHER FACTORS | S JUSTICE MAY REC |)UIRE | 0.0% | h. Petada, J | Adjustment | \$0 |
| | Subtotal by the indicated percen | | | | | |
| Notos | i de la companya di dilangan di managan Managan di managan di | | | | | |
| Notes | | | | | : . | |
| | agentia de la composició | iki watan siran anito wannon a masa wata in in maran | | Final Pen | alty Amount | \$2,550 |
| STATUTORY LIMIT | T ADJUSTMENT | | | Final Asses | sed Penalty | \$2,550 |
| DEFERRAL | Singgen gyannan kanggayayan ka | | 20.0% | Reduction | Adjustment | -\$510 |
| | nalty by the indicted percentage. | (Enter number only; | | | Aujustinent | 4020 |
| Notes | Deferral o | ffered for expedite | ed settlement | | | |

\$2,040

PAYABLE PENALTY

Screening Date 16-Jun-2011

Docket No. 2011-1023-PST-E

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

Respondent City of Houston ("Facility 1")

Case ID No. 41910

Reg. Ent. Reference No. RN100618636

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

| pliance Histo Component | Number of | Enter Number Here | Adjust. |
|--------------------------------|--|---------------------|----------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 0 | 0% |
| | Other written NOVs | 1 | 2% |
| | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| Orders | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | 0 | 0% |
| and Consent Decrees | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| Addits | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| | | ase Enter Yes or No | <u> </u> |
| | Environmental management systems in place for one year or more | No | 0% |
| Other | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |
| | Adjustment Per | centage (Sub | total 2) |
| eat Violator (| Subtotal 3) | | |
| No | Adjustment Per | centage (Sub | total 3) |
| npliance Histo | ory Person Classification (Subtotal 7) | | |
| Average Pe | erformer Adjustment Per | centage (Sub | total 7) |
| pliance Histo | pry Summary | | |
| Compliance History Notes | Enhancement for one NOV with dissimilar violations. | | |

| Case ID No. Reg. Ent. Reference No. | City of Houston ("Facility 1") 41910 RN100618636 Petroleum Storage Tank | PST-E Policy Revision 2 (September 2002) PCW Revision October 30, 2008 |
|---|---|--|
| Violation Number Rule Cite(s) | 1 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code | § 26.3475(c)(1) |
| Violation Description | Failed to monitor underground storage tanks ("USTs") for releas of at least once every month (not to exceed 35 days between e | |
| | | Base Penalty \$10,000 |
| >> Environmental, Proper Release OR Actual | ty and Human Health Matrix Harm Major Moderate Minor | |
| Potential | X Percent | 25% |
| >>Programmatic Matrix Falsification | Major Moderate Minor Percent | 0% |
| | or the environment will or could be exposed to pollutants which w otective of human health or environmental receptors as a result o | |
| | | \$2,500 |
| Violation Events Number of V | /iolation Events 1 8 Number of v | iolation days |
| mark only one | daily weekly monthly x | |
| with an x | quarterly Violati semiannual annual single event | on Base Penalty \$2,500 |
| One monthly | event is recommended based on documentation of the violation do 2011 record review to the June 16, 2011 screening date. | uring the June 8, |
| Good Faith Efforts to Com | Before NOV NOV to EDPRP/Settlement Offer | \$0 |
| | Extraordinary Ordinary | |
| | N/A x (mark with x) The Respondent does not meet the good faith crite this violation. | eria for |
| | | olation Subtotal \$2,500 |
| Economic Benefit (EB) for | , | Limit Test al Penalty Total \$2,550 |
| · | This violation Final Assessed Penalty (adj | |

| | | conomic | Benefit | Wo | rksheet | | |
|------------------------------|-----------------|--|--------------|--------|--|----------------------------------|----------------------------------|
| Respondent | • | n ("Facility 1") | | | | | |
| Case ID No. | | , | | | | | |
| | Petroleum Sto | | | | , | Percent Interest | Years of |
| Violation No. | 1 | | | | | | Depreciation |
| | | | | | | 5.0 | 15 |
| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
| Item Description | | and the state of the first term of the state | | | | | |
| | NO COMMISSION P | | | | | | . 11. 1. 111. 116 de recest. 1 m |
| Delaved Costs | | | | | | | |
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | † | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,500 | 8-Jun-2011 | 16-Mar-2012 | 0.77 | \$58 | n/a | \$58 |
| Notes for DELAYED costs | Estimated c | | | | UST system. The c estimated date of | late required is the compliance. | record review |
| Avoided Costs | ANNUAL | IZE [1] avoided | costs before | enteri | ng item (except | for one-time avoid | ied costs) |
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| nspection/Reporting/Sampling | | 1 | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Notes for AVOIDED costs | | | | | | | |
| Approx. Cost of Compliance | | \$1,500 | | **** | TOTAL | | \$58 |

Penalty Calculation Worksheet (PCW) PCW Revision October 30, 2008 Assigned 11-Jul-2011 PCW 15-Sep-2011 Screening 13-Jul-2011 **EPA Due** RESPONDENT/FACILITY INFORMATION Respondent City of Houston ("Facility 2" Reg. Ent. Ref. No. RN102383890 Major/Minor Source Minor Facility/Site Region 12-Houston CASE INFORMATION No. of Violations 1 Enf./Case ID No. 41910 Order Type 1660 **Docket No.** 2011-1023-PST-E Media Program(s) Petroleum Storage Tank Government/Non-Profit Yes Enf. Coordinator Wallace Myers Multi-Media EC's Team Enforcement Team Maximum \$10,000 Admin. Penalty \$ Limit Minimum \$0 Penalty Calculation Section Subtotal 1 \$2,500 TOTAL BASE PENALTY (Sum of violation base penalties) ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. \$0 **Compliance History** 0.0% Enhancement Subtotals 2, 3, & 7 No adjustment for compliance history. Notes \$0 Subtotal 4 Culpability No 0.0% Enhancement The Respondent does not meet the culpability criteria. Notes Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0 \$0 0.0% Enhancement* **Economic Benefit** *Capped at the Total EB \$ Amount Total EB Amounts \$187 Approx. Cost of Compliance \$2,500 Final Subtotal **SUM OF SUBTOTALS 1-7** \$0 0.0% OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment Reduces or enhances the Final Subtotal by the indicated percentage Notes \$2,500 Final Penalty Amount STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$2,500 -\$500 Reduction Adjustment **DEFERRAL** 20.0%

Deferral offered for expedited settlement.

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g.

PAYABLE PENALTY

Notes

20 for 20% reduction.)

\$2,000

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Screening Date 13-Jul-2011

Docket No. 2011-1023-PST-E

Respondent City of Houston ("Facility 2")

Case ID No. 41910

Reg. Ent. Reference No. RN102383890

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

| Component | ry <i>Sit</i> e Enhancement (Subtotal 2) Number of | Enter Number Here | Adjust |
|------------------------|--|---------------------|----------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 0 | 0% |
| | Other written NOVs | 0 | . 0% |
| | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| Orders | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | 0 | 0% |
| and Consent Decrees | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| Addits | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| | Ple | ase Enter Yes or No | |
| | Environmental management systems in place for one year or more | No | 0% |
| Other | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| Other | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |
| eat Violator (| Adjustment Per Subtotal 3) | centage (Sub | total 2) |
| No | Adjustment Per | centage (Sub | total 3) |
| pliance Histo | ry Person Classification (Subtotal 7) | | |
| Average Pe | rformer Adjustment Per | centage (Sub | total 7) |
| pliance Histo | ry Summary | | |
| Compliance History | No adjustment for compliance history. | | |

| | ning Date | | Docket No. 2011-1023-PST-E | ng figging against agus ann an ann an air | PCW |
|---|----------------------------|---|--|---|---|
| | spondent se ID No. | City of Houston ("Facility 2") | | • | 2 (September 2002) on October 30, 2008 |
| Reg. Ent. Refe | | | | TON NEVISIO | 31 October 30, 2000 |
| Media | [Statute] | Petroleum Storage Tank | | | |
| | ordinator ion Number | Wallace Myers | | | |
| | Rule Cite(s) | | 334.50(b)(1)(A) and (b)(2) and Tex. Water | Code 8 | |
| • • | itale elle(s) | | 26.3475(a) and (c)(1) | | |
| | | | | | |
| | | | ind storage tanks ("USTs") for releases at a th (not to exceed 35 days between each m | | |
| Violation | Description | | er release detection for the product piping | | |
| | | | with the UST system. | | |
| | | <u> </u> | _ | | 110000 |
| | | | Ва | se Penalty | \$10,000 |
| >> Environment | al, Proper | ty and Human Health | Matrix | | |
| | Release | Harm Major Moderate | Minor | | |
| OR | Actual | | Barrier 1 | | |
| | Potential | <u> </u> | Percent 25% | 0] | |
| >>Programmati | | | | | |
| | Falsification | Major Moderate | Minor Percent 0% | 6 | |
| | | | | | |
| Matrix H | luman health | or the environment will or co | uld be exposed to pollutants which would e | xceed levels | |
| Notes | that are pr | otective of human health or e | environmental receptors as a result of the v | riolation. | |
| <u>L</u> | | | | #7 F00 | |
| | | | Adjustment | \$7,500 | |
| | | | | | \$2,500 |
| Violation Events | | | | | |
| 55 55 4 5 5 4 5 5 4 4 4 4 4 4 5 5 5 5 5 | Number of N | Violation Events 1 | 8 Number of violatio | n davs | |
| | Number of | Violation Events 1 | Table of violate | 11 00/5 | |
| | | daily | | | |
| | | weekiy monthly x | | | |
| | mark only one with an x | quarterly | Violation Ba | se Penalty | \$2,500 |
| | | semiannual annual | | | |
| | | single event | | | |
| | | | | | |
| | One monthly | | d on documentation of the violation during the July 13, 2011 screening date. | the July 5, | |
| | | | | | |
| Good Faith Effor | ts to Com | | Reduction | | \$0 |
| A CONTRACT CONTRACTOR | | Before NOV Extraordinary | NOV to EDPRP/Settlement Offer | | |
| | | Ordinary | | | |
| | | N/A X | (mark with x) | ≔ 1 | |
| | | Notes The Respond | ent does not meet the good faith criteria fo | r | |
| | | Notes | this violation. | | |
| | | Principal de la constitución de | Violatio | on Subtotal | \$2,500 |
| | | | | | 42,500 |
| Economic Benefi | t (EB) for | this violation | Statutory Lim | it Test | |
| | Estimat | ed EB Amount | \$187 Violation Final Pe | nalty Total | \$2,500 |
| | | This viol | ation Final Assessed Penalty (adjusted | for limits) | \$2,500 |
| | | 1113 4101 | | -, | |

| | | conomic | Benefit | Wo | rksheet | | |
|--|-----------------|--|---|--|--|--|---|
| Respondent | City of Housto | n ("Facility 2") | | | | en e | a ti a a a a a a a a a a a a a a a a a a |
| Case ID No. | 41910 | | | | | | |
| eg. Ent. Reference No. | RN102383890 | | | | | | |
| | Petroleum Sto | | | | | . | Years of |
| Violation No. | 3 | | | | | Percent Interest | Depreciation |
| Tiolation ito: | - | | | | | 5.0 | 15 |
| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
| Item Description | No commas or \$ | | | | | | |
| | | | | (12:000000000000000000000000000000000000 | | 222-23 22-23 2-232-232-232-232-232-232-232-232- | 443040000000000000000000000000000000000 |
| Delayed Costs | | | | | | | |
| Equipment | l | T | | 10.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$Ö | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| | | | | | | | |
| Other (as needed) | \$1,500 | | 13-Apr-2012 | 0.78 | ST system. The s | n/a | \$58 |
| Other (as needed) Notes for DELAYED costs | Estimated c | ost to provide rele date and | ease detection I d the final date | or the I | UST system. The destimated date of d | late required is the i | record review |
| | Estimated c | ost to provide rele date and | ease detection I d the final date | or the l is the d | UST system. The destimated date of d | late required is the compliance. | record review ded costs) |
| Notes for DELAYED costs Avoided Costs Disposal | Estimated c | ost to provide rele date and | ease detection I d the final date | or the listhe of the or | UST system. The destimated date of dat | late required is the compliance. For one-time avoid | record review ded costs) \$0 |
| Notes for DELAYED costs Avoided Costs | Estimated c | ost to provide rele date and | ease detection I d the final date | or the lis the description of the list of | UST system. The destimated date of destimated date of descept so | late required is the compliance. For one-time avoid \$0 \$0 | record review ded costs) \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling | Estimated c | ost to provide rele date and | ease detection I d the final date | or the I is the (enterin 0.00 0.00 0.00 | UST system. The destimated date of destimated date of descept \$0 \$0 \$0 | late required is the compliance. for one-time avoid \$0 \$0 \$0 \$0 | record review ded costs) \$0 \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment | Estimated c | ost to provide rele date and | ease detection I d the final date | or the list the centering 0.00 0.00 0.00 0.00 0.00 0.00 | UST system. The destimated date of destimated date of destination (except \$0 \$0 \$0 \$0 | late required is the icompliance. For one-time avoid \$0 \$0 \$0 \$0 | ded costs) \$0 \$0 \$0 \$0 \$0 |
| Avoided Costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] | Estimated c | ost to provide rele date and IZE [1] avoided | ease detection f d the final date costs before | enterio 0.00 0.00 0.00 0.00 0.00 0.00 | UST system. The destimated date of destimated date of destinated date of destination of destination date o | late required is the compliance. For one-time avoid \$0 \$0 \$0 \$0 \$0 | ded costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$ |
| Avoided Costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] | Estimated c | ost to provide rele date and | ease detection I d the final date | enterii 0.00 0.00 0.00 0.00 0.00 1.92 | UST system. The destimated date of destimated date of destimated date of destination of date of destination of date of destination of destina | late required is the compliance. For one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$118 | record review ded costs) \$0 \$0 \$0 \$0 \$0 \$0 \$129 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] | Estimated c | ost to provide rele date and IZE [1] avoided | ease detection f d the final date costs before | enterio 0.00 0.00 0.00 0.00 0.00 0.00 | UST system. The destimated date of destimated date of destinated date of destination of destination date o | late required is the compliance. For one-time avoid \$0 \$0 \$0 \$0 \$0 | ded costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$ |
| Avoided Costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] | ANNUAL \$118 | ost to provide rele date and IZE [1] avoided | case detection I d the final date costs before 5-Jul-2011 | enterii 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 | UST system. The destimated date of destimated date of destimated date of destimated date of destination da | for one-time avoid s0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | s0 s0 s0 s0 s0 s0 s0 s0 |
| Avoided Costs Avoided Costs Disposal Personnel aspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed) | ANNUAL \$118 | ost to provide rele date and IZE [1] avoided | case detection I d the final date costs before 5-Jul-2011 | enterii 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 | UST system. The destimated date of date o | for one-time avoid s0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | s0 s0 s0 s0 s0 s0 s0 s129 s0 s0 s129 s0 s0 s0 s0 s0 s0 s0 s |

| Policy Revision 2 (Se. | | ty Calculatio | n Worksheet (PC | CW) PCW Revision Oct | ober 30, 2008 |
|---|---|--|--|---|---|
| TGEQ | Acmber 2002) | | | 7 CV NOVISION OCC | |
| DATES Assigned PCW | 18-Jul-2011 15-Sep-2011 Scr o | eening 20-Jul-2011 | EPA Due | | |
| RESPONDENT/FACILIT | | | | | |
| | City of Houston ("Facil | lity 3") | | | |
| Reg. Ent. Ref. No. Facility/Site Region | | | Major/Minor Source | Minor | - |
| racinty/Site Region | 12-Houston | | Prajor/Printor Source | S I MITOL | |
| CASE INFORMATION _ | | | | | |
| Enf./Case ID No. | | | No. of Violations | | |
| | 2011-1023-PST-E Petroleum Storage Tar | AL THE RESERVE TO THE | Order Type Government/Non-Profit | | |
| Media Program(s) | retroleum Storage Tai | IIK | Enf. Coordinator | | |
| Trait Fredict | | | | Enforcement Team 7 | |
| Admin. Penalty \$ L | imit Minimum | \$0 Maximum | \$10,000 | a a a constituira firmana saasaa a a a a anaisa a a a a a a a a a a a a a a a a a a | |
| | Pr | enalty Calcula | ation Section | <u> </u> | *************************************** |
| TOTAL DACE DEMA | | | | | \$2,500 |
| TOTAL BASE PENA | LIY (Sum of viol | ation base pena | | Subtotal 1 | \$2,500 |
| ADJUSTMENTS (+/ | -) TO SUBTOTAL | | | | |
| Subtotals 2-7 are obt | tained by multiplying the To | otal Base Penalty (Subtotal | 1) by the indicated percentage. | ###################################### | |
| Compliance His | tory | 2.0% | n Enhancement Subto | otals 2, 3, & 7 | \$50 |
| Notes | Enhanceme | ent for one NOV with o | lissimilar violations | | _ |
| Notes | Limoncenic | and toll one tvov with t | iissiitiidi violations. | | |
| Culpability | No | 0.002 | 5 Enhancement | Subtotal 4 | \$0 |
| Cuipability | NO Lineary | 0.0% | • Ennancement |] | 70 |
| Notes | The Respond | dent does not meet th | e culpability criteria. | | |
| region j. L | | | | _] | |
| Good Ealth Effo | ort to Comply Total A | Adiuetmante | | Subtotal 5 | \$0 |
| QUOU I GIGII I III | it to comply rotal r | Aujustincints | distancia da santa propagationi di America de Calabardo de America de Calabardo de Calabardo de Calabardo de C Transporta de Calabardo | Subtotal 5 | |
| | | | | | |
| Economic Bene | a fill de de la colo de la colo de colo de la colo de la colo <mark>procesa del colo de la c</mark> | alamanini kala susiy membaban dan dan 1941 Bulah B | • Enhancement* | Subtotal 6 | \$0 |
| Approx. | | 141 *Capp 118 | ed at the Total EB \$ Amount | | |
| | | | | | |
| SUM OF SUBTOTAL | .S 1-7 | | | Final Subtotal | \$2,550 |
| ATUEN PACTORS A | C THETTER MAY | neouthe. | | | 40 |
| OTHER FACTORS A Reduces or enhances the Final | | | 0.0% | Adjustment | \$0 |
| | Subtotul by the molecular pe | orcontago. | | | |
| Notes | | | | | |
| | | | | | |
| | | | Final Per | naity Amount | \$2,550 |
| STATUTORY LIMIT | ADJUSTMENT | | ing a samula samula samula kama | essed Penalty | \$2,550 |
| SIMIUIUNI LIMII | UNION LINEILI | pugula da Millimin Tidilihin | , | sacu renalty | 42,330 |
| DEFERRAL | | | 20.0% Reduction | Adjustment | -\$510 |
| Reduces the Final Assessed Pen | alty by the indicted percent | tage. (Enter number only; | · | . a. og og om om om om om om og om | |
| | | uus kan saajanin seeda seesa. Kan ka ka ka ka ka ka ka | | | |
| Notes | Deferr | al offered for expedite | ed settlement. | | and the second |

\$2,040

PAYABLE PENALTY

Screening Date 20-Jul-2011

Docket No. 2011-1023-PST-E

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

Respondent City of Houston ("Facility 3")

Case ID No. 41910

Reg. Ent. Reference No. RN102396611

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

| Component | ry Site Enhancement (Subtotal 2) Number of | Enter Number Here | Adjust |
|--|--|---------------------|-------------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 0 | 0% |
| NOVS | Other written NOVs | 1 | 2% |
| uspinista na | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| Orders | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | 0 | 0% |
| and Consent Decrees | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | O | 0% |
| Audits | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| | | ase Enter Yes or No | T |
| | Environmental management systems in place for one year or more | No | 0% |
| Other | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| Ochci | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |
| | Adjustment Per | centage (Sub | total 2 |
| at Violator (| Subtotal 3) | | |
| No | Adjustment Per | centage (Sub | total 3 |
| | istication and the state of the | | godena atte |
| piiance Histo | ry Person Classification (Subtotal 7) | | |
| Average Pe | rformer Adjustment Per | centage (Sub | total 7 |
| pliance Histo | ry Summary | | 7.111 |
| Compliance History Notes | Enhancement for one NOV with dissimilar violations. | | |

| Screening Date Respondent | 20-Jul-2011 City of Houston ("Facility 3") | Docket No. 2011-1023-PST-E Policy Revi | PCW sion 2 (September 2002) |
|---|--|--|--------------------------------|
| Case ID No. Reg. Ent. Reference No. Media [Statute] Enf. Coordinator Violation Number | RN102396611 Petroleum Storage Tank | PCW R | evision October 30, 2008 |
| Rule Cite(s) | 30 Tex. Admin. Code § 33 | 34.50(b)(2) and Tex. Water Code § 26.3475(a) | |
| Violation Description | the underground storage tank | ise detection for the product piping associated with ("UST") system. Specifically, the Respondent did not lired triennial piping tightness testing. | |
| | | Base Penalty | \$10,000 |
| >> Environmental, Proper Release OR Actual Potential | ty and Human Health M Harm Major Moderate | Minor Percent 25% | |
| >>Programmatic Matrix Falsification | Major Moderate | Minor Percent 0% | |
| | | d be exposed to pollutants which would exceed levels vironmental receptors as a result of the violation. | |
| | | Adjustment \$7,500 | \$2,500 |
| Violation Events | | | 42/333 |
| Number of ^v | Violation Events 1 | 1095 Number of violation days | |
| mark only one with an x | daily weekly monthly quarterly semiannual annual | Violation Base Penalty | \$2,500 |
| | single event x | | <u>.</u> |
| | | ree-year period preceding the July 15, 2011 record review. | |
| Good Faith Efforts to Com | Before NOV N Extraordinary Ordinary N/A X (r | eduction OV to EDPRP/Settlement Offer mark with x) at does not meet the good faith criteria for | \$0 |
| | Notes | this violation. | |
| | | Violation Subtota | \$2,500 |
| Economic Benefit (EB) for Estimat | this violation ed EB Amount | Statutory Limit Test \$141 Violation Final Penalty Tota | \$2,550 |
| | This violat | ion Final Assessed Penalty (adjusted for limits) | \$2,550 |

| Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. | 41910 RN102396611 | | | | | | |
|---|----------------------|-----------------|--------------|---|--|---|---|
| Reg. Ent. Reference No. Media | RN102396611 | | | | | | |
| Media | | | | | | | |
| Media | | | | | | | |
| | | | | | | | Years of |
| violation ivo. | | | | | | Percent Interest | Depreciation |
| | | | | | | | 1.000000 |
| | | | | | | 5.0 | 15 |
| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
| Item Description | No commas or \$ | | | | | | |
| * | | | | | | | |
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | | \$0 | | 10 |
| | | H II | | 0.00 | 1 50 | l n/a l | \$0 |
| | | | | | \$0 \$0 | n/a n/a | \$0 \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | |
| | | | | | | ************************************** | \$0 |
| Remediation/Disposal Permit Costs | | | | 0.00 0.00 0.00 | \$0 \$0 \$0 \$0 | n/a n/a n/a n/a | \$0 \$0 \$0 |
| Remediation/Disposal Permit Costs Other (as needed) | ANNUAL | IZE [1] avoided | costs before | 0.00 0.00 0.00 | \$0 \$0 \$0 \$0 | n/a n/a n/a n/a for one-time avoid | \$0 \$0 \$0 \$0 |
| Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs | ANNUAL | IZE [1] avoided | costs before | 0.00 0.00 0.00 enterin | \$0 \$0 \$0 \$0 ng item (except | n/a n/a n/a n/a for one-time avoid | \$0 \$0 \$0 \$0 |
| Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs | ANNUAL | IZE [1] avoided | costs before | 0.00 0.00 0.00 0.00 | \$0 \$0 \$0 \$0 ng item (except \$0 \$0 | n/a n/a n/a n/a for one-time avoic | \$0 \$0 \$0 \$0 led costs) \$0 \$0 |
| Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel | ANNUAL | IZE [1] avoided | costs before | 0.00 0.00 0.00 0.00 enterir 0.00 0.00 | \$0 \$0 \$0 \$0 ng item (except \$0 \$0 \$0 | n/a n/a n/a n/a for one-time avoid \$0 \$0 \$0 | \$0 \$0 \$0 \$0 led costs) \$0 \$0 \$0 |
| Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal | ANNUAL | IZE [1] avoided | costs before | enterio 0.00 0.00 0.00 0.00 0.00 0.00 0.00 | \$0 \$0 \$0 \$0 ng item (except \$0 \$0 \$0 \$0 | n/a n/a n/a n/a for one-time avoid \$0 \$0 \$0 \$0 \$0 | \$0 \$0 \$0 \$0 led costs) \$0 \$0 \$0 |
| Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Ispection/Reporting/Sampling | ANNUAL | | | enterir 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 | \$0 \$0 \$0 \$0 so \$0 \$0 \$0 \$0 \$0 | n/a n/a n/a n/a for one-time avoid \$0 \$0 \$0 \$0 \$0 | \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |
| Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Ispection/Reporting/Sampling Supplies/equipment | ANNUAL \$118 | IZE [1] avoided | costs before | enterio 0.00 0.00 0.00 0.00 0.00 0.00 0.00 | \$0 \$0 \$0 \$0 ng item (except \$0 \$0 \$0 \$0 | n/a n/a n/a n/a for one-time avoid \$0 \$0 \$0 \$0 \$0 | \$0 \$0 \$0 \$0 led costs) \$0 \$0 \$0 |

Compliance History

Customer/Respondent/Owner-Operator:

CN600128995

City of Houston

Classification: AVERAGE

Rating: 2.33

Regulated Entity:

RN100618636

Northwest Service Center

Classification: AVERAGE

Site Rating: 1.00

ID Number(s):

PETROLEUM STORAGE TANK

REGISTRATION

33511

Location:

1255 JUDIWAY ST, HOUSTON, TX, 77018

TCEQ Region:

REGION 12 - HOUSTON

Date Compliance History Prepared:

June 16, 2011

REGISTRATION

Agency Decision Requiring Compliance History:

Enforcement

Compliance Period:

June 16, 2006 to June 16, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name:

Wallace Myers

Phone:

512-239-6580

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?

Yes

2. Has there been a (known) change in ownership/operator of the site during the compliance period?

No

3. If Yes, who is the current owner/operator?

N/A

4. If Yes, who was/were the prior owner(s)/operator(s)?

N/A

5. When did the change(s) in owner or operator occur?

N/A

Rating Date: 9/1/2010 Repeat Violator:

NO

Components (Multimedia) for the Site:

Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

C. Chronic excessive emissions events.

The approval dates of investigations. (CCEDS Inv. Track. No.) D.

11/12/2009

(781048)

02/25/2010

(792315)

06/08/2011

(893610)

Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/12/2009 (781048)

CN600128995

Classification:

Moderate

Self Report? NO

30 TAC Chapter 115, SubChapter C 115.242(3)

Citation:

Description:

30 TAC Section 115.242 (3) - Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable

CARB Executive Order(s), and free of defects that would impair the effectiveness of

the system

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History CN600128995 City of Houston Classification: AVERAGE Rating: 2.33 Customer/Respondent/Owner-Operator: Regulated Entity: RN102383890 HPD Clear Lake Police Station Classification: HIGH Site Rating: 0.00 PETROLEUM STORAGE TANK REGISTRATION 72185 ID Number(s): REGISTRATION 2855 BAY AREA BLVD, HOUSTON, TX, 77058 Location: **REGION 12 - HOUSTON** TCEQ Region: Date Compliance History Prepared: July 28, 2011 Agency Decision Requiring Compliance History: Enforcement July 13, 2006 to July 13, 2011 Compliance Period: TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History Phone: Name: Wallace Myers (512) 239-6580 **Site Compliance History Components** 1. Has the site been in existence and/or operation for the full five year compliance period? Yes 2. Has there been a (known) change in ownership/operator of the site during the compliance period? No 3. If Yes, who is the current owner/operator? N/A 4. If Yes, who was/were the prior owner(s)/operator(s)? N/A 5. When did the change(s) in owner or operator occur? N/A Rating Date: 9/1/2010 Repeat Violator: Components (Multimedia) for the Site: Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government. B. Any criminal convictions of the state of Texas and the federal government. Chronic excessive emissions events. C. N/A D. The approval dates of investigations. (CCEDS Inv. Track. No.) 01/24/2008 (614723)07/05/2011 2 (907612)E. Written notices of violations (NOV). (CCEDS Inv. Track. No.) N/A F. Environmental audits. N/A Type of environmental management systems (EMSs). G. Voluntary on-site compliance assessment dates. H.

١.

Early compliance.

N/A

Participation in a voluntary pollution reduction program.

N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:

CN600128995

City of Houston

Classification: AVERAGE

Rating: 2.33

Regulated Entity:

RN102396611

PWE Street Maintenance

Classification: AVERAGE

Site Rating: 0.75

ID Number(s):

PETROLEUM STORAGE TANK

REGISTRATION

33510

Location:

1700 E CROSSTIMBERS ST, HOUSTON, TX, 77093

TCEQ Region:

REGION 12 - HOUSTON

Date Compliance History Prepared:

July 20, 2011

REGISTRATION

Agency Decision Requiring Compliance History:

Enforcement

Compliance Period:

July 20, 2006 to July 20, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name:

Wallace Myers

Phone:

(512) 239-6580

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?

Yes

2. Has there been a (known) change in ownership/operator of the site during the compliance period?

No

3. If Yes, who is the current owner/operator?

N/A

4. If Yes, who was/were the prior owner(s)/operator(s)?

N/A

5. When did the change(s) in owner or operator occur?

N/A

Rating Date: 9/1/2010 Repeat Violator:

NO

Components (Multimedia) for the Site:

Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

Chronic excessive emissions events.

The approval dates of investigations. (CCEDS Inv. Track. No.) D.

11/26/2006

(518408)

2 02/15/2007 (540425)

01/22/2010

(788765)

4 07/15/2011

(908236)

Written notices of violations (NOV). (CCEDS Inv. Track. No.) E.

Date:

11/26/2006 (518408)

CN600128995

Self Report? NO

Classification:

Moderate

Citation:

30 TAC Chapter 115, SubChapter C 115.242(3)

Description:

30 Tex. Admin. Code Section 115.242 (3)(G) - Failure to maintain the Stage II vapor

recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair

the effectiveness of the system, including vapor return lines, includin

F. Environmental audits.

Type of environmental management systems (EMSs). G.

N/A

H. Voluntary on-site compliance assessment dates. N/A

I. Participation in a voluntary pollution reduction program.

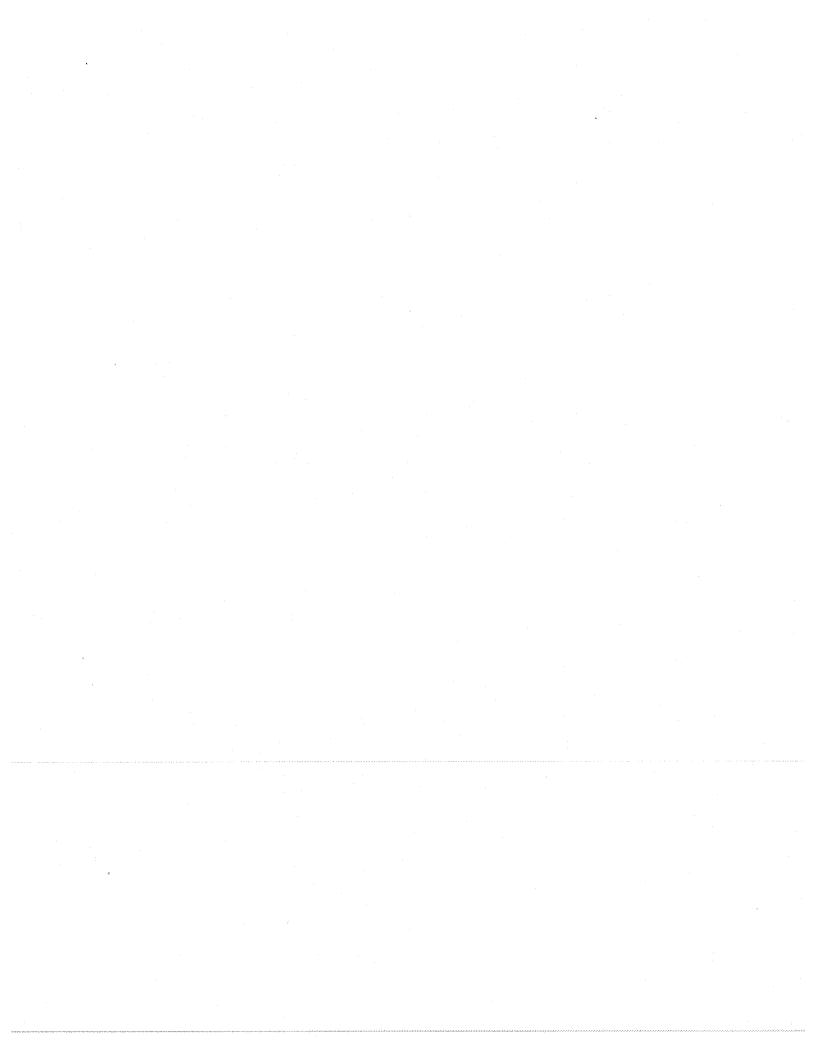
N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



| IN THE MATTER OF AN | § | BEFORE THE |
|---------------------------|---|-----------------------|
| ENFORCEMENT ACTION | § | |
| CONCERNING | § | TEXAS COMMISSION ON |
| CITY OF HOUSTON | § | |
| RN100618636, RN102383890, | § | |
| AND RN102396611 | § | ENVIRONMENTAL QUALITY |

AGREED ORDER DOCKET NO. 2011-1023-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Houston ("the Respondent") under the authority of Tex. Water Code chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

- 1. The Respondent owns and operates the following three fleet refueling service facilities (collectively referred to as the "Facilities"):
 - a. Northwest Service Center, RN100618636, ("Facility 1"), located at 1255 Judiway Street, Houston, Harris County, Texas, has three in-service underground storage tanks ("USTs");
 - b. Clear Lake Police Station, RN102383890, ("Facility 2"), located at 2855 Bay Area Boulevard, Houston, Harris County, Texas, has two in-service USTs; and
 - c. PWE Street Maintenance, RN102396611, ("Facility 3"), located at 1700 East Crosstimbers Street, Houston, Harris County, Texas, has one in-service UST.
- 2. The Respondent's six USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
- 3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 13, 2011, July 10, 2011, and July 20, 2011.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Seven Thousand Six Hundred Dollars (\$7,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Eighty Dollars (\$6,080) of the administrative penalty and One Thousand Five Hundred Twenty Dollars (\$1,520) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facilities, the Respondent is alleged to have:

1. At Facility 1:

a. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during a record review conducted on June 8, 2011.

City of Houston DOCKET NO. 2011-1023-PST-E Page 3

2. At Facility 2:

- a. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 Tex. ADMIN. CODE § 334.50(b)(1)(A) and Tex. WATER CODE § 26.3475(c)(1), as documented during a record review conducted on July 5, 2011; and
- b. Failed to provide proper release detection for the product piping associated with the UST system, in violation of 30 Tex. Admin. Code § 334.50(b)(2) and Tex. Water Code § 26.3475(a), as documented during a record review conducted on July 5, 2011.

3. At Facility 3:

a. Failed to provide proper release detection for the product piping associated with the UST system, in violation of 30 Tex. Admin. Code § 334.50(b)(2) and Tex. Water Code § 26.3475(a), as documented during a record review conducted on July 15, 2011. Specifically, the Respondent did not conduct the required triennial piping tightness testing.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Houston, Docket No. 2011-1023-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement a release detection method for all USTs at Facilities 1 and 2, in accordance with 30 Tex. ADMIN. CODE § 334.50;

- ii. Implement a release detection method for the piping associated with the USTs at Facilities 2 and 3, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Waste Section Manager Houston Regional Office Texas Commission on Environmental Quality 5425 Polk Avenue, Suite H Houston, Texas 77023-1486

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facilities' operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

City of Houston DOCKET NO. 2011-1023-PST-E Page 5

The determination of what constitutes good cause rests solely with the Executive Director.

- 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- This Agreed Order may be executed in separate and multiple counterparts, which 7. together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
- 8. Under 30 Tex. Admin. Code § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

City of Houston

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

| For the Commission | |
|---|---|
| For the Executive Director | 1 17- 1 Date |
| I, the undersigned, have read and understand the agree to the attached Agreed Order on behalf of the do agree to the terms and conditions specified the accepting payment for the penalty amount, is mate | he entity indicated below my signature, and I rein. I further acknowledge that the TCEQ, in |
| additional penalties, and/or attorney fees, of Increased penalties in any future enforcement Automatic referral to the Attorney General | submitted; heral's Office for contempt, injunctive relief, or to a collection agency; |
| and TCEQ seeking other relief as authorized by In addition, any falsification of any compliance doc | law. cuments may result in criminal prosecution. |
| Gabrie Mussio GMM Signature | 9/23/// Date |
| Name (Printed or typed) Authorized Representative of | Title Manager |

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.